

EXHIBIT E

Nonprofit thrust into spotlight after finding abandoned cable in Lake Tahoe

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Laney Griffo / lgrippo@tahoeDailyTribune.com



Seth Jones and Monique Rydel Fortner are co-founders of Below the Blue.

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It's a beautiful March day out on Lake Tahoe, the sun is shining, the air is still and there are few other boats on the lake so the water looks like glass. The water is so pristine, it's hard to imagine there can be anything ugly in the water.

Looking into the water, schools of trout swim underneath a boat and about 50 yards away, bubbles are rising from two scuba divers below.

However, when Seth Jones and Monique Rydel Fortner, co-founders of Below the Blue, surface, they are dragging with them a rusted engine block that had been used as a makeshift buoy anchor.

After only a few hours on the lake, which is a short day for the two who can spend whole days diving Lake Tahoe's shores, they pulled up 650 pounds worth of discarded items.

It just shows how much work needs to be done to clean the lake and how much work still needs to be done to keep it clean in the future.

Jones and Fortner have been the watchdogs of the lake and have never wanted public attention or recognition for the work they do. They've always preferred to be behind the scenes or below the water, but when they discovered an abandoned lead phone cable which belonged to AT&T's Pacific Bell Telephone Company they found themselves in the public eye.

The discovery led to the founding of Below the Blue, a nonprofit whose goal is, "to remove foreign debris from bodies of water, educate the public about pollution, and collect data that will help facilitate policy change and enforcement."

How it started

Below the Blue was founded in 2020 but Jones and Fortner have a much longer history in Lake Tahoe and in water, in general.

Both work for Marine Taxonomic Services, an environmental consulting company that provides services such as sediment studies, invasive species management and survey and project support. MTS was founded in 1980 by Jones' parents, Howard and Kathy Jones.

Seth took over the company in 2009 and now serves as President & CEO, Principal Consultant and Project Manager.

Fortner serves as a Senior Scientist, Senior Project Manager, and Dive Safety Officer.

The main office for MTS is in San Diego, Calif. but the company has worked on projects all along the West Coast, including near the Bay Area, in Oregon and Alaska.

MTS' first project in Lake Tahoe was in 2011 on a project with the Tahoe Regional Planning Agency to tarp areas in the water to stop the spread of Asian clams, which are an invasive species in Tahoe. The organization has had experience working with aquatic invasive species and said they felt lucky to have been picked for that project.

During that project, there were several days that weather prevented them from officially working but they figured since they already had the staff and the boat, they might as well go out diving anyways.

"In Emerald Bay, we saw tons of trash and we just started pulling up trash. So, on our days off, we'd just go dive the mooring fields or wherever and everywhere we dove we'd fill the boat [with trash]," Jones said. "I mean, we've been pulling up trash elsewhere, as well, but that really got us excited up here like, 'there's such a problem, we've got to help fix it.'"

Since then, Jones and Fortner have made Lake Tahoe their homebase.

"We've been up here ever since, making a difference and we fell in love with it," Fortner said.

The birth of Below the Blue

In 2018, MTS was working on a project with California State Parks on their invasive species control efforts in Emerald Bay.

Sarinah Simons, who is now the Videographer for Below the Blue, was a guest on the boat that day.

As Jones and Fortner were completing their survey work, they were also picking up trash.

"We do our work, but we're not just going to leave trash there, so we all have goody bags, we're very efficient as we're going along, it doesn't take a second to just pick up a piece of trash," Fortner said. "So, divers would come up and they'd bring all this trash and [Simons] was like, 'oh my god, what is this?' And she was just blown away."

Jones and Fortner had always considered starting a nonprofit but they were so focused on their work that they didn't think they had time for it. However, after Simons saw all the trash they were pulling up, she pushed them to start the non-profit, telling them that they had to let people know.

Simons went back to her job at the park's system and told her co-workers about the trash. Another employee, Silver Hartman, along with their boss, Dan Shaw started an art group to raise public awareness about the issue.

Jones and Fortner provided the group with trash, which local school children then used to make art. Below the Blue now has a 16 feet by 8 feet wall mural made of trash art which was an unforgettable experience for the children to make.

Jones remembers once pulling a scooter out of the lake near Tahoe Vista. A 10-year-old boy came up to him and said, "Did this come from the lake? This is ridiculous, the tourists here are unbelievable."

"So, we started out as an art related project to raise awareness and still hounding the agencies to try and make a change without having to take legal action, just raising awareness," Jones said. "So Below the Blue started that way, but also to help with funding, as well. MTS as well as a lot of us personally have donated time, \$100,000s of personal dollars for these efforts which I'll continue to do forever but to take it to the next level, we can do so much more."

Raising money also allows them to properly dispose of the trash they pull up and keep up maintenance on their boat, which prior to starting the non-profit, they did with their personal money.

"It's great, you know, we're not where we want to be on that front but just to see the progress and the interest," Fortner said.

Another big push to found Below the Blue was to gain credibility in their fight for the removal of the cable.

The cable

They first discovered the cable in 2011, when working on the Asian clam project. Jones and his family had done a lot of work with scrap metal growing up so when Jones saw the cable, he immediately recognized the copper, lead and other components.

"At the time I was like, 'we can just pull this up and scrap it, it's got to be worth a lot,'" Jones said. But they weren't able to find who owned the cable.



Provided/Below the Blue

On another dive, they found more of the cable and as time went, they found more and more segments of it.

From above the water, the cable doesn't look like much. The shoreline of Tahoe is full of fallen trees and broken branches, and the cable could easily be mistaken for a tiny tree trunk.

They eventually had a section of it pulled up and tested. They found it had 20,000 pounds of lead per mile and 4,000 pounds of copper, as well as steel and tar creosote.

Through their own surveying, Below the Blue has found at least eight miles of cables running along Lake Tahoe's west shore, which weighs about 150,000 pounds. It was confirmed that PacBell, owned by AT&T abandoned the cables over 30 years ago.

"It's actively leaching into the lake, into the drinking water," Jones said.

They were eventually able to discover the cables belonged to AT&T and several acquaintances were excited about the possibility of suing to have the cables removed.

Although Below the Blue hadn't originally wanted to pursue legal action, the enormity and severity of the cables leaking led them to bring the issue to the attention of California Sportfishing Protection Alliance, which filed a suit against AT&T.

"We submerged a three-foot length of the cable in a plastic tub full of Lake Tahoe water," said attorney Bill Verick in a press release. "After one day, the test results showed 600 micrograms of lead per liter in the water. After three more days, it was up to 1,200 micrograms per liter."

"A concentration of quarter microgram per liter would be enough to require consumer warnings,

and discharging that concentration into a California source of drinking water is legally forbidden," the release went on to say.

AT&T first tried to claim the cables weren't theirs, but video footage Jones and Fortner took showed their name literally on the cable. They then tried to claim it wasn't leaching lead, however, one of AT&T's employees accidentally let slip that there was lead.

In 2021, AT&T agreed to a settlement, which requires them remove the leaded telecommunications cable by 2022 as well as cover all costs for permitting and proper

disposal.

In a press release following the settlement, Below the Blue said, "Signage dates to the original use of the cables as early as the 1930s. Testing has confirmed the presence of

lead, with conservative estimates of over 60 tons. At the time of placement of the cables, long-term impacts of such metals in water were not well understood.”

“Now that the risks of such contamination are known, it is unfathomable to continue exposing Lake Tahoe’s residents and millions of visitors to potential harm,” said Fortner in the press release.

As of March 2022, AT&T has begun work on removing the cable but Below the Blue and CSPA will continue monitoring and will decide on further legal action.

CSPA attorney Kirk Boyd said in a press release the barge companies he’s talked to say the removal shouldn’t cost more than \$500,000, and “we don’t expect PacBell will back out of the agreement on cost grounds.”

While Below the Blue would love to be the ones to pull up the cable, they doubt AT&T would hire them. But for Jones and Fortner, it was never about money, it was just about making sure the cable was removed, no matter.

“It’s been fun, it’s definitely rewarding, you can actually make some changes. It’s hard and sometimes it’s like, ‘I’ve wasted a lot of time with this,’ in the long-term it will come out and it will make a difference to Tahoe,” Jones said.

That’s not all

While the cable has given Below the Blue some notoriety, this is not the only contribution Jones and Fortner have made to Lake Tahoe.

MTS has contracts with California State Parks, Tahoe Resource Conservation District, UC Davis Tahoe Environmental Research Center, University of Nevada Reno and TRPA.

They’ve worked on aquatic invasive species removal, river and marsh restoration, restoring and upkeep on State Parks’ pipes, all the while, cleaning up trash.

They’ve also been instrumental in cleaning up hazardous waste from wrecked and abandoned boats, such as the boat that was abandoned in Emerald Bay in winter 2021.

But they see Below the Blue as an opportunity to bridge the gap between agencies and advocate for policy change.

For example, the engine block they pulled out of the lake on that March day. There are many illegal moorings all over the lake and while TRPA is clamping down on the practice, the anchors people use for those moorings are often just whatever is heavy enough to stay down, which often means it’s not good for the lake. In addition to the engine block, they also pulled up several large gears.

They’ve also seen construction material that’s been abandoned in the lake and they’ve even seen construction workers blatantly push leftover material into the lake.

“If only people could see the ugly truth about what is out there,” Fortner said.

So, in addition to cleaning the material up, they’ve also pushed for TRPA to change their policy, requiring an in-water inspection before and after projects are completed.

“We don’t need credit for the things, we just need the rules to change,” Fortner said.

Jones and Fortner clearly love Lake Tahoe and their passion is obvious and contagious. They are treasure hunters, although their treasure is not valuable in the common sense of the word.

There is a shallow part of the entrance to Emerald Bay where boats often hit rocks. While diving that section, Fortner rose to the surface with just a piece of a broken rudder perfectly shaped like a shark fin placed on her head showing. When her head broke the surface she was laughing.

Back on the boat, Jones and Fortner compare their finds and congratulate each other on some of the bigger items.

Their “fun” days literally just consist of them diving for trash.

So, even if they aren’t front and center in the public eye, there’s no doubt that they have and will continue to make a huge difference for Lake Tahoe.

To learn more, visit <https://belowtheblue.org>.

Editor’s note: This story appears in the 2022 summer edition of Tahoe Magazine.

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